

The Human Right to Adequate Housing: A Tool for Promoting and Protecting Individual and Community Health

The human right to adequate housing is enshrined in international law. The right to adequate housing can be traced to the Universal Declaration of Human Rights, which was unanimously adopted by the world community in 1948. Since that time, the right to adequate housing has been reaffirmed on numerous occasions and further defined and elaborated.

A key component of this right is habitability of housing, which should comply with health and safety standards. Therefore, the right to adequate housing provides an additional tool for advocates and others interested in promoting healthful housing and living conditions and thereby protecting individual and community health. (Am J Public Health. 2002;92:712–715)

Bret Thiele, JD

[P]oor housing is always associated with high rates of morbidity and mortality, yet housing generally is not high on the list of societal needs and governmental priorities.

Robert E. Novick,
Environmental Health in Rural and
Urban Development and Housing,
World Health Organization

THE RIGHT TO ADEQUATE HOUSING IN INTERNATIONAL LAW

VARIOUS ASPECTS OF HOUSING

rights are protected in numerous international instruments, including the Universal Declaration of Human Rights¹; the International Covenant on Economic, Social and Cultural Rights²; the International Covenant on Civil and Political Rights³; the International Convention on the Elimination of All Forms of Racial Discrimination⁴; the Convention on the Elimination of All Forms of Discrimination Against Women⁵; the Convention on the Rights of the

Child⁶; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (not yet in force).⁷

For instance, the Universal Declaration of Human Rights, article 25(1), states:

Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.¹

Similarly, the International Covenant on Civil and Political Rights, article 17(1), protects persons from arbitrary or unlawful interference with their homes.³ The International Convention on the Elimination of All Forms of Racial Discrimination, article 5(e)(iii), prohibits discrimination on account of race, color, or na-

tional or ethnic origin with respect to the right to housing.⁴ Likewise, the Convention on the Elimination of All Forms of Discrimination Against Women, article 14(2)(h), obliges states parties to eliminate discrimination against women in rural areas to ensure that such women enjoy adequate living conditions, particularly in relation to housing.⁵

The Convention on the Rights of the Child, article 27(3), obliges states parties to provide, in cases of need, material assistance and support programs, particularly with regard to housing,⁶ while the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, article 43(1)(d), provides that “[m]igrant workers shall enjoy equality of treatment with nationals of the State of employment in relation to . . . [a]ccess to housing, including social housing schemes, and protection against exploitation in respect to rents.”⁷ Other interna-

tional instruments guaranteeing housing rights include various International Labor Organization conventions^{8–12} and humanitarian law instruments.¹³

The International Covenant on Economic, Social and Cultural Rights (ICESCR), however, provides the most advanced international standard protecting housing rights. Article 11(1) of the ICESCR states:

The States Parties to the present Covenant recognize the right of everyone to have an adequate standard of living for himself and his family, including adequate food, clothing and housing and to the continuous improvement of living conditions. The States Parties will take appropriate steps to ensure the realization of this right, recognizing to this effect the essential importance of international co-operation based on free consent.²

The Committee on Economic, Social and Cultural Rights, charged by the international community with implementing and monitoring the ICESCR, provided a more precise meaning of the right to adequate housing as expressed in article 11(1) with the adoption of General Comment No. 4 in 1991.¹⁴ This comment articulates component elements of the right to adequate housing, elements that provide a more concise interpretation of the right and thereby further the capability of its content to be judicially determined. The comment also lays out such general principles of international human rights law as the principle of nondiscrimination and discusses the practice of forced eviction, stating that the practice is a *prima facie* violation of the ICESCR.

The 7 components of the right to adequate housing articulated in General Comment No. 4 are

legal security of tenure; availability of services, materials, facilities, and infrastructure; affordability; habitability; accessibility; location; and cultural adequacy. The habitability and accessibility components touch most closely on the issue of health. The former requires that housing provide shelter from threats to health as well as disease vectors. The latter mandates that adequate housing be made accessible to persons with disabilities, including the physically disabled, the terminally ill, HIV-positive individuals, persons with persistent medical problems, and the mentally ill. These issues will be discussed further below.

In 1997, the Committee on Economic, Social and Cultural Rights elaborated on the subject of forced evictions with the adoption of General Comment No. 7, describing the concrete component elements of the often violent practice.¹⁵ General Comment No. 7 therefore joins General Comment No. 4 as an authoritative interpretation of the right to adequate housing as protected by the ICESCR and as a guideline that assists with the adjudication of alleged violations of that right.

General Comment No. 14 on the right to the highest attainable standard of health, adopted in 2000, also lends itself to the promotion and protection of housing adequacy.¹⁶ This comment gives clearer meaning to article 12 of the ICESCR, which states:

1. The States Parties to the present Covenant recognize the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.
2. The steps to be taken by the States Parties to the present Covenant to achieve the full realization of this right shall include those necessary for:

- (a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child;
- (b) The improvement of all aspects of environmental and industrial hygiene;
- (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases;
- (d) The creation of conditions which would assure to all medical services and medical attention in the event of sickness.

In General Comment No. 14, the committee recognized that “the right to health is closely related to and dependent upon the realization of other human rights . . . including the right . . . to housing” and that “these and other rights and freedoms address integral components of the right to health.” With this comment, the committee also expressly interpreted the human right to the highest attainable standard of health to be “an inclusive right extending not only to timely and appropriate health care but also to the underlying determinants of health, such as . . . housing.”¹⁶

THE HEALTH ASPECTS OF ADEQUATE HOUSING

With respect to the health aspects of housing, General Comment No. 4 provides the clearest articulation of the minimum requirements necessary for housing to be considered adequately protective of health. Furthermore, states parties to the ICESCR are legally obligated to respect, protect, and fulfill these requirements. One such requirement is that housing must be habitable, which includes “providing the inhabitants with adequate space and protecting them from cold, damp, heat, rain, wind or other threats to health, structural haz-

ards, and disease vectors.” Additionally, in explaining the habitability requirement, General Comment No. 4 expressly encourages states parties to the Covenant to “comprehensively apply the Health Principles of Housing prepared by the World Health Organization which view housing as the environmental factor most frequently associated with conditions for disease in epidemiological analyses.”¹⁴

The *Health Principles of Housing* elaborates 6 major principles governing the relationship between housing and health: (1) protection against communicable diseases; (2) protection against injuries, poisonings, and chronic diseases; (3) reducing psychological and social stresses to a minimum; (4) improving the housing environment; (5) making informed use of housing; and (6) protecting populations at risk.¹⁷ The first 2 principles are particularly relevant to health. The first stresses that the following conditions are necessary to ensure adequate housing: safe water supply; sanitary disposal of excreta; disposal of solid wastes; drainage of surface water; personal and domestic hygiene; safe food protection; and structural safeguards against disease transmission. The second addresses construction materials and techniques as well as structural safety, including ventilation and light, and suggests that the physical dwelling must be such that inhabitants are not exposed to dangerous conditions or hazardous substances.

INCORPORATING HOUSING RIGHTS INTO NATIONAL LAW

The protection of the right to adequate housing enshrined in

the Universal Declaration of Human Rights applies to every state. Not only does the declaration define the human rights that all members of the United Nations are bound to promote, respect, and observe, but the declaration itself has ripened into customary international law, and thus is applicable to even those states that are not members of the United Nations. Additionally, states parties to the covenants and conventions mentioned above are legally obliged to respect, protect, and fulfill the housing rights found in those instruments as well.

Although most states are parties to international instruments that protect housing rights, it is still important to incorporate those rights into legislation and regulations. This is particularly important in legal systems that utilize the principle of non-self-executing treaties. In those legal systems, courts may refuse to recognize international law as creating private causes of action. Victims of human rights abuses, including abuses of housing rights, therefore, are often unable to avail themselves of their domestic judicial systems either to enforce their human rights or to seek redress for violations of those rights.

Fortunately, many states have incorporated housing rights into their national constitutions or legislation. In several cases, these constitutional or legislative texts are modeled after international standards, principles, and norms. By enshrining housing rights in legislation, states not only fulfill their respective international legal obligations but create domestic legal systems that empower individuals and groups in ways that allow them to enforce their rights.

There are other reasons to use international human rights law as a model for national legislation. For example, reliance on international law to inform domestic law will result in greater consistency across domestic legal systems with respect to universally recognized human rights. Furthermore, states that turn to international law for guidance benefit from the process by which international law is derived. This process often takes a “best practices” approach. International law is influenced by a variety of ideas stemming from diverse legal, political, economic, and cultural traditions. The process of codifying norms into international law reflects the acceptance of those ideas that have been deemed by the international community to be not only “best practices” but also universally applicable.

It is therefore important for states to turn to international human rights law to inform their domestic legislation and policy, including legislation and policy designed to protect and improve the health of their respective populations. The international human right to adequate housing should thus be implemented through domestic law.

CONCLUSION

Housing conditions affect both individual and community health to a great degree. International human rights law recognizes this nexus and provides minimum requirements—requirements that governments are legally obligated to respect, protect, and fulfill—that, if met, will create more healthful living conditions for everyone, everywhere. The right to adequate housing is solidly established and defined under international human rights law. In-

deed, in the words of Matthew Craven, one of the leading scholars in the area of economic, social, and cultural rights, “The Committee [on Economic, Social and Cultural Rights] has dedicated more attention to the right to housing than to any other right.”^{18(p329)}

Notwithstanding this degree of monitoring, some 1.1 billion people live in inadequate housing in urban areas alone. The need for states to take seriously their international legal obligations to respect, protect, and fulfill the right to adequate housing is thus urgent. Public health and other advocates should use human rights law in their advocacy, both to enforce the rights of their constituencies and, as in the case of the United States, to push for ratification of relevant human rights instruments such as the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child.

The International Covenant on Economic, Social and Cultural Rights, ratified by 145 other countries, was signed by President Carter on October 5, 1977, and sent to the Senate for advice and consent to ratification. The Senate, however, has yet to even consider the covenant. Similarly, the Convention on the Rights of the Child was signed by President Clinton on February 16, 1995, but has yet to be considered by the Senate, although the convention has been ratified by every country in the world with the exception of the United States and Somalia (which has no functioning government). Advocates should contact their senators and push for ratification of these important international human rights treaties, and then continue to push for the full im-

plementation and enforcement of the rights embodied in these instruments. The results of such advocacy would go far in improving the living conditions of all persons. ■

About the Author

Bret Thiele is with the Center on Housing Rights and Evictions (COHRE), Geneva, Switzerland.

Requests for reprints should be sent to Bret Thiele, JD, Center on Housing Rights and Evictions, 208 Temple Bldg, 8 N 2nd Ave E, Duluth, MN 55802 (e-mail: bret_thiele@yahoo.com).

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Note. The Center on Housing Rights and Evictions (<http://www.cohre.org>) is an international human rights nongovernmental organization that promotes and protects economic, social, and cultural rights with a particular focus on the right to adequate housing.

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